

LEGISLATIVE COUNSEL

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HOUSE OF REPRESENTATIVES

Report
No. 93-228

DISAPPROVING REORGANIZATION PLAN NO. 2 OF 1973
(DRUG ENFORCEMENT ADMINISTRATION)

MAY 25, 1973.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HOLIFIELD, from the Committee on Government Operations,
submitted the following

REPORT

together with

SEPARATE AND DISSENTING VIEWS

[To accompany H. Res. 382]

The Committee on Government Operations, to whom was referred the resolution (H. Res. 382) to disapprove Reorganization Plan No. 2 of 1973, having considered the same, report favorably thereon and recommend that the resolution do pass.

PURPOSE OF THE PLAN

Reorganization Plan No. 2 of 1973, transmitted to the Congress by President Nixon on March 28, 1973,¹ would do the following:

(1) Establish in the Department of Justice a new agency, the Drug Enforcement Administration, with an Administrator and a Deputy Administrator, both to be appointed by the President, by and with the advice and consent of the Senate. According to the President's message, the new agency would absorb the functions of and replace three agencies now in the department: Bureau of Narcotics and Dangerous Drugs (BNDD),² Office for Drug Abuse Law Enforcement (ODALE),³ and Office of National Narcotics Intelligence (ONNI).⁴ These agencies employ approximately 3,000 employees.

(2) Transfer to the Attorney General from the Secretary and Department of the Treasury, intelligence, investigative, and law enforcement functions relating to the suppression of illicit traffic in narcotics, dangerous drugs, or marihuana. According to the President's

¹ H. Doc. No. 93-69. See appendix.

² Created by Reorganization Plan No. 1 of 1968, 5 U.S.C. App., p. 500.

³ Created under Executive Order 11641, Jan. 28, 1972.

⁴ Created under Executive Order 11676, July 27, 1972.

message, these transferred functions would be assigned to the Drug Enforcement Administration, involving the transfer to the Justice Department of approximately 500 special agents of the Customs Bureau in the Treasury Department.

(3) Transfer to the Secretary of the Treasury functions vested by law in the Attorney General or Department of Justice regarding the inspection of persons and documents at ports of entry. This would involve the transfer of approximately 900 agents⁵ from the Immigration and Naturalization Service (INS) in the Justice Department to the Customs Bureau in the Treasury Department.

Additional information on the plan is given below in the section-by-section analysis.

EXPECTED BENEFITS

The primary justification for the plan, as explained by administration witnesses, is to mount a more effective attack on illicit drugs by establishing "a single command post with the authority to direct all Federal drug enforcement."⁶ A related benefit is seen in the move to integrate inspection activities at ports of entry by bringing these functions under single-agency management in the Customs Bureau of the Treasury Department.

The plan is not presented by the administration as an economy measure, but savings are anticipated through consolidation of some functions and field offices, with a resulting reduction in administrative overhead.

COMMITTEE OPPOSITION

The committee is opposed to the plan. This decision is based on the following, among other considerations:

(1) The plan was hastily formed, possibly to meet the deadline of April 1, 1973, when the basic authority to submit reorganization plans⁷ would lapse unless extended by the Congress. Richard G. Kleindienst, then Attorney General; and other administration witnesses were able to give the subcommittee only a bare outline of the proposed new organization and its functions. Important questions were left unresolved.

(2) The hasty submission and the lack of adequate preparation were reflected in the failure of administration sponsors to consult sufficiently with the employee organizations involved. Serious discussions with the employee organizations were undertaken only after the plan was transmitted to the Congress. The belated effort to resolve points at issue did not succeed in persuading these organizations to support the plan.

(3) The willingness of the administration, in posttransmittal discussions with employee organizations, to make certain concessions, though understandable and perhaps beneficial, serves to underscore the administration's failure to think through the ramifications of the proposed reorganization, to develop an acceptable rationale, and to do

⁵ The administration's initial estimate of 1,000 transferees, set out in the President's message, later was scaled down to 900.

⁶ Testimony of Richard G. Kleindienst, Attorney General of the United States, hearings before a subcommittee of the Committee on Government Operations, U.S. House of Representatives, 93d Cong., 1st sess., Apr. 4 and May 3, 1973, p. 3 (hereafter cited as "hearings").

⁷ Reorganization Act of 1949, as amended, 5 U.S.C. sec. 901 et seq.

the necessary preparatory work. (Regarding these concessions, see correspondence in the appendix.)

The committee notes that subsequent to the hearings, the administration expressed its willingness, conditioned on approval of the plan, to recommend the restoration of 900 personnel positions to the INS—450 through a supplemental appropriations request for fiscal year 1974 and 450 through the regular budget for fiscal year 1975. The committee believes that the INS needs to be greatly strengthened to deal with the difficult problems of illegal entry of aliens into the United States.

(4) The plan attempts to accomplish two separate objectives from a management standpoint: (a) More effective enforcement of laws relating to illicit drugs and narcotics by merging certain units and functions and creating a Drug Enforcement Administration in the Department of Justice; and (b) integration of immigration and other inspection activities at U.S. ports of entry by bringing those activities under single-agency management in the Customs Bureau of the Treasury Department. The committee recognizes a relationship between port inspection activities and the flow of illicit drugs but believes that the problems in each case are serious enough to warrant separate treatment. Justification for the committee position is evidenced in the fact that opponents of one or another part of the plan were compelled to oppose the plan as a whole.

(5) Technical and administrative questions were raised, both by supporters and opponents of the plan, which are of sufficient importance to justify a recommendation that the plan be disapproved. Illustrative questions, not fully answered by administration witnesses are the following:

- Whether the proposed new Drug Enforcement Administration would impair the traditional separation between investigative and prosecutive activities;
- Whether the internal mechanisms for maintaining security and for monitoring performance in the new agency would be sufficiently strong and independent enough to guard against corruption;
- Whether the cross-transfers between Justice and Treasury of Immigration and Customs personnel would engender increased costs and diminish rather than enhance the effectiveness of administration;
- Whether substantial overtime payments to Immigration and Customs inspectors, borne both by the Government and carriers, would be increased or diminished, and with what effect upon all the parties concerned;
- Whether the transfers of functions and authority would create conflicts between the Attorney General and the Secretary of the Treasury and problems of interpretation, with possible prejudice to the rights of detainees and immigrants.

In recommending against Reorganization Plan No. 2 of 1973, the committee wishes to state emphatically that this is not to be taken as objection to stronger and more effective measures in the control of illicit drugs. The committee believes that substantial improvements in this area are needed and is prepared to consider any measures, within its jurisdiction, conducive to such improvements.

COMMITTEE ACTION

Reorganization Plan No. 2 of 1973, upon transmittal, was referred by the Speaker to the Committee on Government Operations. Public hearings were held on April 4 and May 3, 1973, by the Subcommittee on Legislation and Military Operations.⁸ On the latter date, Representative Jerome R. Waldie introduced H. Res. 382, proposing that the plan be rejected by the House.

The subcommittee, on May 10, 1973, voted unanimously to report H. Res. 382 to the full Committee on Government Operations. It voted 9-1 (plus 1 voting "present") to recommend that the full committee report the resolution to the House unfavorably, in effect endorsing the plan.

At the full committee meeting of May 17, 1973, a motion to report unfavorably H. Res. 382 failed on a tie vote, 18-18. On May 22 the committee by a roll-call vote of 23-17 signified its approval of H. Res. 382 and its opposition to the plan. By a voice vote, the committee then ordered the resolution reported to the floor.

SECTION-BY-SECTION ANALYSIS

Section 1 transfers to the Attorney General certain Treasury Department functions related to the suppression of illicit traffic in narcotics, drugs, or marihuana. The transfer includes intelligence, investigation, and law enforcement functions, but not those related to searches and seizures of narcotics at regular inspection locations at ports of entry or anywhere along the land or water borders of the United States.

Section 2 transfers to the Secretary of Treasury Justice Department functions related to the inspection of persons and documents of persons at regular inspection locations at ports of entry of the United States.

Section 3 abolishes the Bureau of Narcotics and Dangerous Drugs and repeals section 3(a) of Reorganization Plan No. 1 of 1968.

Section 4 establishes a Drug Enforcement Administration in the Department of Justice.

Section 5 provides for an Administrator of the Drug Enforcement Administration at the grade of executive salary level III, with duties prescribed by the Attorney General; and for a Deputy Administrator at executive salary level V. Both the Administrator and Deputy Administrator are to be appointed by the President by and with the advice and consent of the Senate.

Section 6 authorizes the Attorney General and the Secretary of the Treasury to make provision for performing, within their respective departments, the functions transferred to them under the plan.

Section 7 requires the Attorney General, acting through the Administrator and such other departmental officials as he may designate, to provide for the coordination of drug law enforcement between and among the Drug Enforcement Administration, the Federal Bureau of Investigation, and other Justice Department units.

Section 8 provides that the Director of the Office of Management and Budget shall determine the allocation of personnel, property, rec-

⁸ Hearings cited in footnote 6, above.

ords, and unexpended balances of appropriations, allocations, and other funds used in connection with the transferred functions.

Section 9 permits the President to designate interim officers as Administrator or Deputy Administrator until formal appointments can be made.

Section 10 provides that the effective date of the plan will be July 1, 1973, or at the expiration of the period of time prescribed in section 906(a) of title 5 of the United States Code, whichever is later.

WITNESSES' POSITIONS

The testimony to the subcommittee reflected broadly three points of view regarding Reorganization Plan No. 2 of 1973:

(1) *Unqualified support for the plan.* This was the position taken, understandably, by administration witnesses. These included Richard G. Kleindienst, then Attorney General; Myles J. Ambrose, Special Assistant Attorney General and Special Consultant to the President for Drug Abuse Law Enforcement; Vernon D. Acree, Commissioner of Customs; and accompanying administration spokesmen, mainly from the Office of Management and Budget. The administration witnesses emphasized the benefits of better coordination, tighter management, and more effective mobilization of resources in the war on illicit drugs.

(2) *Qualified support for the plan.* This was the position taken by Michael Sonnenreich, Executive Director of the National Commission on Marihuana and Drug Abuse, known as the Shafer Commission after its chairman, Raymond P. Shafer, former Governor of Pennsylvania. According to Mr. Sonnenreich, the chairman and a majority of the Commission members, contacted by telephone, favored the plan as a step forward, even though it fell short of the "single agency approach" which the Commission recommended in its second and final report, for a comprehensive attack on drug problems. At the same time, the Executive Director raised some technical questions about the plan which he believed should be clarified through the hearing process.

(3) *Opposition to the plan.* Strong opposition was voiced by representatives of the American Federation of Government Employees (AFGE) and of union locals in the Immigration and Naturalization Service. The burden of their testimony was that the plan was makeshift, hastily drawn, disruptive of established operations, and likely to destroy the INS. Spokesmen for organized labor seemed most concerned with the problem of illegal aliens who, they charged, have deprived American citizens of jobs, and have served to keep wages low and working conditions bad in the industries where they are employed. The plan, they said, would reduce the efficiency of both narcotics control and illegal alien control. As an alternative to the plan, the union spokesmen called for strengthening INS and endorsed legislation which would concentrate drug enforcement activities in the Federal Bureau of Investigation (FBI). The Association of Immigration and Nationality Lawyers also opposed the plan, as did several Members of Congress, who submitted statements for the record.

Following are additional details on selected issues raised in testimony and the responses made by the administration.

SELECTED ISSUES

ILLEGAL ALIENS

A basic responsibility of the Immigration and Naturalization Service is to prevent the entry of illegal aliens into the United States. In 1972, more than 500,000 such aliens were apprehended and returned. This is a serious problem, not only in a legal but an economic and social sense, because aliens are subject to exploitation by employers, burden the welfare rolls, depress wage rates, and deprive Americans of needed jobs. The centering of inspection responsibilities at ports of entry in the Customs Bureau, in the view of witnesses from the employee organizations, will detract attention from the illegal alien problem and deprive the Government of expertise now in the INS.

The union groups associated with the INS also believe that the loss of 900 persons in an organization of 7,000, which already is seriously understaffed, will impair morale and possibly destroy the Service. The committee notes that the employee organization in the Customs Bureau also opposes the plan.

In response to these concerns, administration officials met with AFL-CIO and AFGE union representatives after the hearings and offered assurances, in return for support of the reorganization, that an increase of personnel would be recommended for the INS, equivalent to the number to be transferred by the plan. (See correspondence in the appendix.)

A request for 450 positions would be made in a fiscal year 1974 supplemental appropriation bill, and another 450 in the regular budget for the next fiscal year. The refusal of the union representatives to support the Plan leaves this offer in an uncertain status.

CROSS TRAINING

It was contended by union spokesmen that document inspection for immigration purposes, and person and baggage inspection for customs purposes, are different enough to require distinctive skills that are not easily taught. Interchanging personnel, without careful training or extended experience, results in reduced efficiency for one or the other purpose. So-called "single stop" service, according to this view, is not practicable. There is testimony in the record that one-stop experiments at some ports of entry in the United States were unsuccessful and therefore abandoned.⁹

The administration responds, on the other hand, that customs and immigration inspections already are integrated in many locations. Officers of both services work interchangeably at small ports, and at larger border points they rotate through inspectional assignments, performing screening operations for both agencies. Single management should provide better supervision, more effective drug interception, and improved administration, since one agency would be responsible for facilities, hours of service, and peakload staffing.

In discussions after the hearings, the administration proposed that the Immigration inspectors transferred to Customs would continue

⁹ Hearings, pp. 105, 199.

to do immigration work exclusively, except in cases where they already were handling Customs duties as part of pre-existing cross-assignment arrangements. This separation of work would continue until such time as cross-training would be completed and supervisory personnel would be satisfied that Customs employees could handle immigration responsibilities.

The expertise required for more difficult immigration cases would be maintained, according to the administration, by retaining an Immigration "presence" at ports of entry. INS immigration experts would continue to process the more complex cases of questionable admissibility. It was indicated that a majority of INS personnel for these "secondary" inspection tasks would be retained at INS.

INSPECTION OVERTIME

Inspectors for both the Immigration and Naturalization Service and the Customs Bureau, mainly at ports of entry, draw substantial pay for overtime work. Compensation for overtime is made in part from appropriated funds and in part from carriers. In fiscal year 1972, the INS made overtime payments of \$4,415,545 from appropriated funds and \$4,838,153 reimbursed by carriers. In the same period, the Bureau of Customs made overtime payments of \$4,348,641 from appropriated funds and \$21,091,093 reimbursed by carriers. Each service bills carriers according to its own formulas and practices based on separate statutory enactments.

Precise information is not available of how overtime payments would be affected by the plan. The Government, the carriers, and the employees doing the inspection work all have an interest in the consequences of the reorganization. Since the 1911 statute¹⁰ governing overtime compensation in Customs is said by the administration to be somewhat more favorable than the 1931 statute¹¹ governing overtime in INS, conceivably the transfer of INS inspectors to Customs could gain them some additional overtime benefits. The transfer also might cause some further expense to the carriers because of the difference in formulas, but there is no conclusive information on this subject.

From a management standpoint, substantial overtime signifies irregular hours, interruptions in daily pursuits, added Government expenses, and other problems. To many of the employees involved, evidently the overtime has become a built-in part of their compensation. Attention was called to one group of beneficiaries—INS personnel not regularly assigned to inspection who now enjoy overtime inspection privileges and receive substantial overtime compensation. For example, of 310 employees in this category, the administration reported that 77 had overtime earnings in calendar year 1972 ranging between \$10,000–\$15,000. A few earned more than \$33,000 in overtime.¹²

INTERNAL SECURITY UNIT

The Shafer Commission believes, as pointed out in testimony, that a reorganization of functions for a broader attack on illicit drug traf-

¹⁰ Act of Feb. 13, 1911; 36 Stat. 901; 19 U.S.C. sec. 267.

¹¹ Act of Mar. 2, 1931; 46 Stat. 1467; 8 U.S.C. sec. 1353a et seq.

¹² Hearings, p. 283.

fic should include an internal security and evaluation unit independent of the DEA administrative chain of command. This unit, in the Commission's view, should report directly to the Attorney General rather than to the Administrator of DEA.

The importance of an internal security unit with independent reporting channels lies in the fact that corruptibility is an ever-present danger, considering the high dollar stakes in illicit drug traffic. Also, such a unit would be able to report on drug enforcement matters beyond the purview of the DEA, which, despite the consolidation of drug-control agencies in the Justice Department, does not encompass the whole range of drug control operations.

Mr. Kleindienst's response was that a separate unit for internal security outside the DEA was not necessary; that there were other offices with departmentwide concern for proper and effective administration, such as the Assistant Attorney General for Administration; and that as a matter of good management the DEA Administrator should have control over the unit or function in question.

INVESTIGATION VERSUS ENFORCEMENT

Concern was expressed that the close relationship between investigative and prosecutive functions contemplated for the DEA would mark a basic change in jurisprudence and a serious impairment of the traditional separation between investigation and prosecution. Mr. Kleindienst had announced at the April 4 hearing that he was establishing, concurrently with the creation of the DEA, a new Narcotic Division under an Assistant Attorney General in the Justice Department.¹³ The new division, with some 50 lawyers, would have charge of all aspects of Federal narcotics prosecutions, and the Assistant Attorney General in charge would be the legal adviser to DEA.

The point at issue is whether the announced separation of organizations for investigation and prosecution would lose meaning because of the close cooperation envisaged, particularly the participation of the prosecutive staff in the early stages of investigation. Mr. Kleindienst's rejoinder was that the coordination would be somewhat closer than in other litigative divisions because of the especially difficult problems of drug law enforcement, but that enough separation would be maintained to preserve the integrity of both processes.

Mr. Kleindienst also stated that prosecution of drug offenders would be conducted for the most part by U.S. attorneys, as in the case of other prosecutions for law violations. Attorneys in the Narcotics Division, while working closely with DEA agents, would be responsible to the Assistant Attorney General who heads their division, not to the DEA Administrator. These attorneys, working under the U.S. attorney, would authorize arrests and searches and conduct grand jury investigations in drug matters. The assistance of DEA agents in these grand jury investigations was likened by Mr. Kleindienst to that of FBI assistance to Federal prosecutors in other cases.

¹³ Hearings, p. 4. This move does not require congressional authorization. Under existing law, the Attorney General can determine the internal organization of the Department. An Assistant Attorney General position became available when the Attorney General disestablished the Internal Security Division.

Mr. Kleindienst pointed out further that the concept of early legal participation in investigations is not new, having been used for many years by the organized crime strike forces in the Justice Department, as well as by many U.S. attorneys. According to the Justice Department, most major indictments and convictions returned by the Department in all criminal areas have utilized this cooperative concept between the prosecutor and the investigating agent.¹⁴

ALLOCATION OF AUTHORITY

Questions were raised by several witnesses about the allocation of authority as between the Attorney General and the Secretary of the Treasury in consequence of the reorganization. For example, the executive director of the Shafer Commission pointed out the "grave uncertainty" as to the meaning of language in section 2 of the plan, which provides that "any person apprehended or detained" by the Secretary of the Treasury under the transferred inspection authority shall be "turned over forthwith" to the Attorney General. Ambiguity attaches to the meaning of the word "detained" and could create legal problems in the areas of searches and seizures.

In response to this point, the Justice Department furnished for the record a statement to the effect that any person "detained" by Customs officials for a violation of a narcotics law would be turned over to agents of the DEA as expeditiously as possible for followup investigation. The statement went on to say: "While it is expected that the Customs interface with DEA will be frequent and extensive without any impairment of the authority of Customs, it should be noted that temporary detention by Customs officials of persons apprehended in the course of the performance of the Customs mission will normally not include performance of appreciable further intelligence-gathering or investigations relating to narcotic offenses." This statement seems to mean that the "temporary detention" referred to is something less than a formal arrest. The committee is not certain what legal problems could arise in the future.

CONCLUDING STATEMENT

The committee concludes that Reorganization Plan No. 2 of 1973 should be rejected by the Congress. We reach this conclusion even while we recognize that the plans seeks to achieve important objectives; namely, more effective enforcement of drug control laws and better management of inspection activities at U.S. ports of entry. In our opinion, organizational changes in pursuit of these objectives ought not to be combined in a single plan. Each has its own complex of problems which deserve separate attention.

Under the compressed time schedule for considering reorganization plans, the committee is not always able to examine with sufficient detail and particularity the issues attendant upon or posed by a reorganization plan. This is the case with Reorganization Plan No. 2 of 1973. If the plan is not approved by the Congress, the committee is prepared to consider legislative proposals within its jurisdiction upon the matters in question.

¹⁴ The discussion on these and related points occurs in the hearings at pp. 16 ff.

93d Congress, 1st Session - - - - House Document No. 98-69

REORGANIZATION PLAN NO. 2 OF 1973,
ESTABLISHING A DRUG ENFORCEMENT
ADMINISTRATION

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REORGANIZATION PLAN NO. 2 OF 1973, ESTABLISHING
A DRUG ENFORCEMENT ADMINISTRATION



MARCH 28, 1973.—Message and accompanying papers referred to the
Committee on Government Operations and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1973

To the Congress of the United States:

Drug abuse is one of the most vicious and corrosive forces attacking the foundations of American society today. It is a major cause of crime and a merciless destroyer of human lives. We must fight it with all of the resources at our command.

This Administration has declared all-out, global war on the drug menace. As I reported to the Congress earlier this month in my State of the Union message, there is evidence of significant progress on a number of fronts in that war.

Both the rate of new addiction to heroin and the number of narcotic-related deaths showed an encouraging downturn last year. More drug addicts and abusers are in treatment and rehabilitation programs than ever before.

Progress in pinching off the supply of illicit drugs was evident in last year's stepped-up volume of drug seizures worldwide—which more than doubled in 1972 over the 1971 level.

Arrests of traffickers have risen by more than one-third since 1971. Prompt Congressional action on my proposal for mandatory minimum sentences for pushers of hard drugs will help ensure that convictions stemming from such arrests lead to actual imprisonment of the guilty.

Notwithstanding these gains, much more must be done. The resilience of the international drug trade remains grimly impressive—current estimates suggest that we still intercept only a small fraction of all the heroin and cocaine entering this country. Local police still find that more than one of every three suspects arrested for street crimes is a narcotic abuser or addict. And the total number of Americans addicted to narcotics, suffering terribly themselves and inflicting their suffering on countless others, still stands in the hundreds of thousands.

A UNIFIED COMMAND FOR DRUG ENFORCEMENT

Seeking ways to intensify our counteroffensive against this menace, I am asking the Congress today to join with this Administration in strengthening and streamlining the Federal drug law enforcement effort.

Funding for this effort has increased sevenfold during the past five years, from \$36 million in fiscal year 1969 to \$257 million in fiscal year 1974—more money is not the most pressing enforcement need at present. Nor is there a primary need for more manpower working on the problem, over 2100 new agents having already been added to the Federal drug enforcement agencies under this Administration, an increase of more than 250 percent over the 1969 level.

The enforcement work could benefit significantly, however, from consolidation of our anti-drug forces under a single unified command. Right now the Federal Government is fighting the war on drug abuse under a distinct handicap, for its efforts are those of a loosely confederated alliance facing a resourceful, elusive, worldwide enemy. Ad-

miral Mahan, the master naval strategist, described this handicap precisely when he wrote that "Granting the same aggregate of force, it is never as great in two hands as in one, because it is not perfectly concentrated."

More specifically, the drug law enforcement activities of the United States now are not merely in two hands but in half a dozen. Within the Department of Justice, with no overall direction below the level of the Attorney General, these fragmented forces include the Bureau of Narcotics and Dangerous Drugs, the Office for Drug Abuse Law Enforcement, the Office of National Narcotics Intelligence, and certain activities of the Law Enforcement Assistance Administration. The Treasury Department is also heavily engaged in enforcement work through the Bureau of Customs.

This aggregation of Federal activities has grown up rapidly over the past few years in response to the urgent need for stronger anti-drug measures. It has enabled us to make a very encouraging beginning in the accelerated drug enforcement drive of this Administration.

But it also has serious operational and organizational shortcomings. Certainly the cold-blooded underworld networks that funnel narcotics from suppliers all over the world into the veins of American drug victims are no respecters of the bureaucratic dividing lines that now complicate our anti-drug efforts. On the contrary, these modern-day slave traders can derive only advantage from the limitations of the existing organizational patchwork. Experience has now given us a good basis for correcting those limitations, and it is time to do so.

I therefore propose creation of a single, comprehensive Federal agency within the Department of Justice to lead the war against illicit drug traffic.

Reorganization Plan No. 2 of 1973, which I am transmitting to the Congress with this message, would establish such an agency, to be called the Drug Enforcement Administration. It would be headed by an Administrator reporting directly to the Attorney General.

The Drug Enforcement Administration would carry out the following anti-drug functions, and would absorb the associated manpower and budgets:

- All functions of the Bureau of Narcotics and Dangerous Drugs (which would be abolished as a separate entity by the reorganization plan);
- Those functions of the Bureau of Customs pertaining to drug investigations and intelligence (to be transferred from the Treasury Department to the Attorney General by the reorganization plan);
- All functions of the Office for Drug Abuse Law Enforcement; and
- All functions of the Office of National Narcotics Intelligence.

Merger of the latter two organizations into the new agency would be effected by an executive order dissolving them and transferring their functions, to take effect upon approval of Reorganization Plan No. 2 by the Congress. Drug law enforcement research currently funded by the Law Enforcement Assistance Administration and other agencies would also be transferred to the new agency by executive action.

The major responsibilities of the Drug Enforcement Administration would thus include:

- development of overall Federal drug law enforcement strategy, programs, planning, and evaluation;
- full investigation and preparation for prosecution of suspects for violations under all Federal drug trafficking laws;
- full investigation and preparation for prosecution of suspects connected with illicit drugs seized at U.S. ports-of-entry and international borders;
- conduct of all relations with drug law enforcement officials of foreign governments, under the policy guidance of the Cabinet Committee on International Narcotics Control;
- full coordination and cooperation with State and local law enforcement officials on joint drug enforcement efforts; and
- regulation of the legal manufacture of drugs and other controlled substances under Federal regulations.

The Attorney General, working closely with the Administrator of this new agency, would have authority to make needed program adjustments. He would take steps within the Department of Justice to ensure that high priority emphasis is placed on the prosecution and sentencing of drug traffickers following their apprehension by the enforcement organization. He would also have the authority and responsibility for securing the fullest possible cooperation—particularly with respect to collection of drug intelligence—from all Federal departments and agencies which can contribute to the anti-drug work, including the Internal Revenue Service and the Federal Bureau of Investigation.

My proposals would make possible a more effective anti-drug role for the FBI, especially in dealing with the relationship between drug trafficking and organized crime. I intend to see that the resources of the FBI are fully committed to assist in supporting the new Drug Enforcement Administration.

The consolidation effected under Reorganization Plan No. 2 would reinforce the basic law enforcement and criminal justice mission of the Department of Justice. With worldwide drug law enforcement responsibilities no longer divided among several organizations in two different Cabinet departments, more complete and cumulative drug law enforcement intelligence could be compiled. Patterns of international and domestic illicit drug production, distribution and sale could be more directly compared and interpreted. Case-by-case drug law enforcement activities could be more comprehensively linked, cross-referenced, and coordinated into a single, organic enforcement operation. In short, drug law enforcement officers would be able to spend more time going after the traffickers and less time coordinating with one another.

Such progress could be especially helpful on the international front. Narcotics control action plans, developed under the leadership of the Cabinet Committee on International Narcotics Control, are now being carried out by U.S. officials in cooperation with host governments in 59 countries around the world. This wide-ranging effort to cut off drug supplies before they ever reach U.S. borders or streets is just now beginning to bear fruit. We can enhance its effectiveness, with little disruption of ongoing enforcement activities, by merging both

the highly effective narcotics force of overseas Customs agents and the rapidly developing international activities of the Bureau of Narcotics and Dangerous Drugs into the Drug Enforcement Administration. The new agency would work closely with the Cabinet Committee under the active leadership of the U.S. Ambassador in each country where anti-drug programs are underway.

Two years ago, when I established the Special Action Office for Drug Abuse Prevention within the Executive Office of the President, we gained an organization with the necessary resources, breadth, and leadership capacity to begin dealing decisively with the "demand" side of the drug abuse problem—treatment and rehabilitation for those who have been drug victims, and preventive programs for potential drug abusers. This year, by permitting my reorganization proposals to take effect, the Congress can help provide a similar capability on the "supply" side. The proposed Drug Enforcement Administration, working as a team with the Special Action Office, would arm Americans with a potent one-two punch to help us fight back against the deadly menace of drug abuse. I ask full Congressional cooperation in its establishment.

IMPROVING PORT-OF-ENTRY INSPECTIONS

No heroin or cocaine is produced within the United States; domestic availability of these substances results solely from their illegal importation. The careful and complete inspection of all persons and goods coming into the United States is therefore an integral part of effective Federal drug law enforcement.

At the present time, however, Federal responsibility for conducting port-of-entry inspections is awkwardly divided among several Cabinet departments. The principal agencies involved are the Treasury Department's Bureau of Customs, which inspects goods, and the Justice Department's Immigration and Naturalization Service, which inspects persons and their papers. The two utilize separate inspection procedures, hold differing views of inspection priorities, and employ dissimilar personnel management practices.

To reduce the possibility that illicit drugs will escape detection at ports-of-entry because of divided responsibility, and to enhance the effectiveness of the Drug Enforcement Administration, the reorganization plan which I am proposing today would transfer to the Secretary of the Treasury all functions currently vested in Justice Department officials to inspect persons, or the documents of persons.

When the plan takes effect, it is my intention to direct the Secretary of the Treasury to use the resources so transferred—including some 1,000 employees of the Immigration and Naturalization Service—to augment the staff and budget of the Bureau of Customs. The Bureau's primary responsibilities would then include:

- inspection of all persons and goods entering the United States;
- valuation of goods being imported, and assessment of appropriate tariff duties;
- interception of contraband being smuggled into the United States;
- enforcement of U.S. laws governing the international movement of goods, except the investigation of contraband drugs and narcotics; and

—turning over the investigation responsibility for all drug law enforcement cases to the Department of Justice.

The reorganization would thus group most port-of-entry inspection functions in a single Cabinet department. It would reduce the need for much day-to-day interdepartmental coordination, allow more efficient staffing at some field locations, and remove the basis for damaging inter-agency rivalries. It would also give the Secretary of the Treasury the authority and flexibility to meet changing requirements in inspecting the international flow of people and goods. An important by-product of the change would be more convenient service for travelers entering and leaving the country.

For these reasons, I am convinced that inspection activities at U.S. ports-of-entry can more effectively support our drug law enforcement efforts if concentrated in a single agency. The processing of persons at ports-of-entry is too closely interrelated with the inspection of goods to remain organizationally separated from it any longer. Both types of inspections have numerous objectives besides drug law enforcement, so it is logical to vest them in the Treasury Department, which has long had the principal responsibility for port-of-entry inspection of goods, including goods being transported in connection with persons. As long as the inspections are conducted with full awareness of related drug concerns it is neither necessary nor desirable that they be made a responsibility of the primary drug enforcement organization.

DECLARATIONS

After investigation, I have found that each action included in Reorganization Plan No. 2 of 1973 is necessary to accomplish one or more of the purposes set forth in Section 901(a) of Title 5 of the United States Code. In particular, the plan is responsive to the intention of the Congress as expressed in Section 901(a) (1): "to promote better execution of the laws, more effective management of the executive branch and of its agencies and functions, and expeditious administration of the public business;" Section 901(a) (3): "to increase the efficiency of the operations of the Government to the fullest extent practicable;" Section 901(a) (5): "to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions as may not be necessary for the efficient conduct of the Government;" and Section 901(a) (6): "to eliminate overlapping and duplication of effort."

As required by law, the plan has one logically consistent subject matter: consolidation of Federal drug law enforcement activities in a manner designed to increase their effectiveness.

The plan would establish in the Department of Justice a new Administration designated as the Drug Enforcement Administration. The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in Section 5 of the plan. The rates of compensation fixed for these officers would be comparable to those fixed for officers in the executive branch who have similar responsibilities.

While it is not practicable to specify all of the expenditure reductions and other economies which may result from the actions proposed, some savings may be anticipated in administrative costs now associated with the functions being transferred and consolidated.

The proposed reorganization is a necessary step in upgrading the effectiveness of our Nation's drug law enforcement effort. Both of the proposed changes would build on the strengths of established agencies, yielding maximum gains in the battle against drug abuse with minimum loss of time and momentum in the transition.

I am confident that this reorganization plan would significantly increase the overall efficiency and effectiveness of the Federal Government. I urge the Congress to allow it to become effective.

RICHARD NIXON.

THE WHITE HOUSE, *March 28, 1973.*

REORGANIZATION PLAN NO. 2 OF 1973

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 28, 1973, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

LAW ENFORCEMENT IN ILLICIT DRUG ACTIVITIES

SECTION 1. *Transfers to the Attorney General.* There are hereby transferred from the Secretary of the Treasury, the Department of the Treasury, and any other officer or any agency of the Department of the Treasury, to the Attorney General all intelligence, investigative, and law enforcement functions, vested by law in the Secretary, the Department, officers, or agencies which relate to the suppression of illicit traffic in narcotics, dangerous drugs, or marihuana, except that the Secretary shall retain, and continue to perform, those functions, to the extent that they relate to searches and seizures of illicit narcotics, dangerous drugs, or marihuana or to the apprehension or detention of persons in connection therewith, at regular inspection locations at ports of entry or anywhere along the land or water borders of the United States: *Provided*, that any illicit narcotics, dangerous drugs, marihuana, or related evidence seized, and any person apprehended or detained by the Secretary or any officer of the Department of the Treasury, pursuant to the authority retained in them by virtue of this section, shall be turned over forthwith to the jurisdiction of the Attorney General; *Provided further*, that nothing in this section shall be construed as limiting in any way any authority vested by law in the Secretary of the Treasury, the Department of the Treasury, or any other officer or any agency of that Department on the effective date of this Plan with respect to contraband other than illicit narcotics, dangerous drugs, and marihuana; and *Provided further*, that nothing in this section shall be construed as limiting in any way any authority the Attorney General, the Department of Justice, or any other officer or any agency of that Department may otherwise have to make investigations or engage in law enforcement activities, including activities relating to the suppression of illicit traffic in narcotics, dangerous drugs, and marihuana, at ports of entry or along the land and water borders of the United States.

SEC. 2. *Transfers to the Secretary of the Treasury.* There are hereby transferred to the Secretary of the Treasury all functions vested by law in the Attorney General, the Department of Justice, or any other officer or any agency of that Department, with respect to the inspection at regular inspection locations at ports of entry of persons, and documents of persons, entering or leaving the United States: *Provided*, that any person apprehended or detained by the Secretary or his designee pursuant to this section shall be turned over forthwith to the jurisdiction of the Attorney General: and, *Provided further*, that

nothing in this section shall be construed as limiting, in any way, any other authority that the Attorney General may have with respect to the enforcement, at ports of entry or elsewhere, of laws relating to persons entering or leaving the United States.

SEC. 3. *Abolition.* The Bureau of Narcotics and Dangerous Drugs, including the Office of Director thereof, is hereby abolished, and section 3(a) of Reorganization Plan No. 1 of 1968 is hereby repealed. The Attorney General shall make such provision as he may deem necessary with respect to terminating those affairs of the Bureau of Narcotics and Dangerous Drugs not otherwise provided for in this Reorganization Plan.

SEC. 4. *Drug Enforcement Administration.* There is established in the Department of Justice an agency which shall be known as the Drug Enforcement Administration, hereinafter referred to as "the Administration."

SEC. 5. *Officers of the Administration.* (a) There shall be at the head of the Administration the Administrator of Drug Enforcement, hereinafter referred to as "the Administrator." The Administrator shall be appointed by the President by and with the advice and consent of the Senate, and shall receive compensation at the rate now or hereafter prescribed by law for positions of level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). He shall perform such functions as the Attorney General shall from time to time direct.

(b) There shall be in the Administration a Deputy Administrator of the Drug Enforcement Administration, hereinafter referred to as "the Deputy Administrator," who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Attorney General may from time to time direct, and shall receive compensation at the rate now or hereafter prescribed by law for positions of level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(c) The Deputy Administrator or such other official of the Department of Justice as the Attorney General shall from time to time designate shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

SEC. 6. *Performance of transferred functions.* (a) The Attorney General may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this Reorganization Plan by any officer, employee, or agency of the Department of Justice.

(b) The Secretary of the Treasury may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this Reorganization Plan by any officer, employee, or agency of the Department of the Treasury.

SEC. 7. *Coordination.* The Attorney General, acting through the Administrator and such other officials of the Department of Justice as he may designate, shall provide for the coordination of all drug law enforcement functions vested in the Attorney General so as to assure maximum cooperation between and among the Administration, the Federal Bureau of Investigation, and other units of the Department involved in the performance of these and related functions.

SEC. 8. *Incidental transfers.* (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available in connection with the functions transferred to the Attorney General and to the Secretary of the Treasury by this Reorganization Plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Department of Justice and to the Department of the Treasury, respectively, at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such Federal agencies as he shall designate.

SEC. 9. *Interim Officers.* (a) The President may authorize any person who, immediately prior to the effective date of this Reorganization Plan, held a position in the Executive Branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this Reorganization Plan or by recess appointment as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect to which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 10. *Effective date.* The provisions of this Reorganization Plan shall take effect as provided by section 906(a) of title 5 of the United States Code or on July 1, 1973, whichever is later.

COMMUNICATIONS FROM THE OFFICE OF
MANAGEMENT AND BUDGET

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., May 17, 1973.

Hon. CHET HOLIFIELD,
Chairman, House Government Operations Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I very much share your concern that we strengthen substantially the government's capability to interdict the flow of illegal aliens into the United States.

Under the rationalized assignment of organizational responsibility contemplated by Reorganization Plan No. 2 of 1973, the Bureau of Customs will conduct the initial screening of persons, baggage, and cargo at ports of entry. Approximately nine hundred INS inspectors will be transferred to Customs to assist in this task. Customs and INS inspectors will be cross-trained in each other's specialty. Until this training is completed no new cross assignments will be made. Thus, the only change which will be made as of July first will be that INS inspectors will don Customs' uniforms.

It has always been assumed that INS will continue to have a substantial presence at ports of entry. Under the plan INS will perform all existing Immigration functions except those related to the initial screening of individuals entering the country. The difficult cases, and particularly those involving policy judgments, will be handled, as at present, by INS personnel.

The plan deals only with those immigration responsibilities taking place within legal ports of entry. Between ports of entry the Immigration and Naturalization Service's Border Patrol will continue to have responsibility for preventing the illegal entry of aliens.

Because of the seriousness of the illegal alien problem and the importance of protecting American jobs, the Administration fully understands the need to increase the budgetary resources devoted to illicit alien control. We, in particular, believe it important to add manpower to the internal investigative elements of INS and to the Border Patrol. We would thus contemplate that, if the plan is approved by Congress, a substantial portion of the approximately nine hundred positions which we now estimate will be transferred under the plan from INS to the Bureau of Customs will be restored to INS as a result of budget decisions to be made during the next budget cycle. These positions should be higher graded on the average than the ones lost, given the more complex nature of the alien control investigator's job.

We look forward very much to working with you and with other interested members of the Congress during the coming year in dealing with this most important problem. Through implementation of the organizational reforms contemplated by Reorganization Plan No. 2, we feel confident that the United States Government can do a much more effective job in the future in combating both the drug problem and in dealing with illegal alien control.

Sincerely yours,

ROY L. ASH, *Director*

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., May 22, 1973.

HON. CHET HOLIFIELD,
Chairman, House Government Operations Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I met with officials of the AFL-CIO and AFGE on May 18, 1973, and May 21, 1973, to discuss labor's position on Reorganization Plan No. 2 of 1973. The suggestions advanced by the labor representatives were constructive, and we have attempted to be as responsive as possible.

Our position, based on these discussions, is outlined in the summary at Tab A.

While our conversations have been both frank and cordial, we have not yet been successful in reaching an agreement with labor. However, I very much hope that our discussions will continue and that some mutually satisfactory resolution of the outstanding issues can be concluded prior to final Congressional decision on the Reorganization Plan.

I will keep you advised on significant developments.

Very truly yours,

FREDERICK V. MALEK,
Deputy Director.

REORGANIZATION PLAN NUMBER 2 OF 1973, MAY 22, 1973

MAJOR ISSUES DISCUSSED WITH UNION REPRESENTATIVES

Union opposition from the AFL-CIO and AFGE is oriented almost entirely on Section 2 of the Reorganization Plan which places the inspection functions of Immigration and Customs under a single manager, Customs. The Labor arguments have evolved from a series of separate issues to general opposition centering on the perceived threat of floods of illegal aliens entering the United States because of the alleged destruction of the Immigration and Naturalization Service.

Representatives of OMB, Treasury, and Justice met with representatives of AFL-CIO and AFGE on May 21, 1973. The meeting was amiable and discussion clarified several points to the Union's apparent satisfaction. However, no agreement was reached regarding withdrawal of Union opposition to the plan. The stated Administration positions on the issues raised by Labor are:

1. UPGRADING THE COUNTRY'S ALIEN CONTROL CAPABILITY

(a) A substantial INS presence will be maintained at ports of entry (see attached fact sheet). INS immigration experts will continue to process the more complex cases of questionable admissibility. A *majority* of existing INS *secondary* inspection personnel will be retained at INS for this specific purpose.

(b) Provided the plan is approved, OMB Director Ash has pledged by letter to Chairman Holifield to increase the INS alien interdiction capability. Approximately 900 positions will be transferred from INS to Customs under the plan. If the plan is approved, the Administration would be willing to support an FY-74 supplemental to restore 450

positions and to propose to Congress the restoration of the remaining 450 spaces in the FY-75 budget.

(c) Under the Ash proposal, the additional personnel would go primarily to strengthen the Border Patrol and the investigative elements of INS—the two organizational units of the Federal Government best able to impact the illegal alien problem.

(d) In addition, those Immigration inspectors who transfer to Customs will continue to do immigration work exclusively (except to the extent that they are already handling Customs duties as part of pre-existing cross-assignment arrangements) until such time as cross-training is completed and their supervisors are satisfied that present Customs employees can handle immigration responsibilities.

(e) The INS inspection positions transferred to Customs under the Plan will not be lost to illegal alien control. Customs assumes the responsibility along with the manpower to conduct the screening of all individuals entering the country at legal ports of entry.

(f) Thus approval of the plan will substantially enhance the nation's ability to deal with illegal aliens.

2. UNION JURISDICTIONAL ISSUES

(a) The Federal Government cannot legally take sides in jurisdictional disputes between labor organizations. Hence, no guarantee can be made regarding whether the AFGE affiliate which now represents Immigration inspectors or the existing Customs unions will finally emerge with bargaining rights for the expanded group of Customs inspectors. OMB and the agencies affected will work with the Civil Service Commission and the Department of Labor to see that these jurisdictional issues are resolved as fairly and as expeditiously as possible.

(b) Given the manpower to be added to INS if the plan is approved, the largest number of members that AFGE could conceivably lose to the Customs unions should be recouped within the next year or two. This new manpower should, on the average, be somewhat higher graded than that lost because of the more complex nature of the Border Patrol and inspectional jobs to be strengthened.

(c) It was agreed to maintain the Immigration inspectors to be transferred as a separate entity within Customs for six months after the reorganization goes into effect to allow time for cross-training and to resolve jurisdictional issues.

It was also agreed to maintain until December 31, 1973, as separate bargaining units, AFGE representation for the Immigration inspectors transferred to Customs. Beginning January first, single bargaining units will have to be formed because cross-training will then be completed and the duties of the two groups of inspectors will be identical.

3. CONTINUED ACCESS TO OVERTIME

(a) The Immigration inspectors to be transferred to Customs will continue to have access to lucrative inspector overtime. In fact, 1911 Customs Act overtime is even more favorable than the 1931 Act Immigration Inspector overtime.

(b) INS will continue to have a substantial presence at ports of entry. This will permit all of the INS inspectors, adjudicators, depor-

tation officers, etc., who stay in INS and are currently performing part time inspector overtime will continue to do so. The average amount of overtime available per man should not be significantly different than is currently the case.

(c) Those INS officers now drawing 1931 Act overtime not transferred to Customs as part of the plan but who want to become Customs inspectors will be given priority in hiring by Customs. The Commissioner of Customs estimates that all such "voluntary transfers" could be accommodated by Customs during fiscal 1974.

IMMIGRATION INSPECTION UNDER REORGANIZATION PLAN NO. 2, MAY 21, 1973

Reorganization Plan Number 2 calls for central management of the inspection function at our ports of entry under the control of the Bureau of Customs. During planning, it became evident that continued presence of Immigration and Naturalization Service personnel at ports of entry would be required to provide in-depth immigration expertise.

To aid in understanding the reorganization, a description of the inspection function to be transferred is required. The resources necessary to perform the initial inspection upon arrival of a traveller at the port of entry will be transferred from Immigration to Customs. This initial inspection includes all of the functions known as "primary inspection". This primary inspection may be one-stop or two-stop (immigration followed by customs) depending on the nature of the port of entry. No change in current operating procedures is required by the Reorganization Plan.

The initial inspection may also include a referral to another inspector, moving an individual out of the line to preclude delaying other travellers awaiting arrival. Only problems minor and administrative in nature would be so referred. When a person cannot be cleared for entry during this initial inspection process, referral to an Immigration employee is required.

The immigration presence at ports of entry would perform the majority of the tasks relating to "detailed secondary inspections" as described in INS publications. Additionally, all adjudication functions currently being performed by Immigration personnel will remain in INS.

The man-years of effort involved in execution of travel control functions will be allocated as follows:

Current description	Total man-years	Remain-ins	Transfer to customs
Primary inspection.....	581		581
Secondary inspection.....	328	203	125
Equivalent vacancies.....	30		30
Port receptionists (noninspection).....	21		21
Secondary clerical support.....	85	65	20
Part-time employees (W.A.E.): ¹			
Inspectors.....	88		88
Clerks.....	35		35
Adjudication:			
Officer.....	371	371	
Clerk.....	259	289	
Total.....	1,828	928	900

¹ W.A.E., when actually employed.

After reorganization, the Immigration and Naturalization Service will have approximately 6,400 personnel to provide continuing services of immigration presence at ports of entry, adjudication, operation of the Border Patrol, investigation, naturalization, deportation and maintenance of records.

None of the present immigration inspection expertise is lost as a result of the reorganization because current immigration inspectors will remain at the same location performing the same duties except wearing a Customs' uniform until cross-training is completed. The Director of OMB has pledged by letter to Chairman Holifield to restore to INS during the next budget cycle a substantial portion of the 900 positions transferred to Customs. The additional personnel would go primarily to strengthen the Border Patrol and the investigative elements of INS.

SEPARATE VIEWS OF HON. CHET HOLIFIELD

I believe that Reorganization Plan No. 2 of 1973 has merit. Consequently, I voted against the disapproving resolution and in favor of the plan, despite certain reservations, both as to the kind of preparatory work preceding the submission of the plan and the possible adverse impact upon the Immigration and Naturalization Service.

There is an evident need for more effective administration of the laws against the importation and use of illicit drugs and narcotics, and I endorse particularly that feature of the plan. However, as the report of the majority points out, the reorganization plan seemed hastily put together, and many questions were left hanging in the air. If the part of the plan relating to drug-law enforcement, by adverse action of either the House or the Senate, is not permitted to take effect, then I will support legislation to establish a stronger organizational base for drug-law enforcement.

The part of the plan which seeks to achieve better integration, through single-agency management, of inspection activities at U.S. ports of entry, again has a worthy objective, but is likely to aggravate a serious problem in the Immigration and Naturalization Service unless compensating action is taken. The Service is understaffed and not well enough equipped to cope successfully with the illegal entry of aliens, who flood our job markets, undermine wage standards, and create other problems, as noted in the majority report. The transfer of approximately 900 persons from the Immigration and Naturalization Service to the Bureau of Customs, contemplated under the plan, seems ill-timed and hardly conducive to maintaining Service morale and bringing to bear the manpower and other resources so badly needed by the Service.

I brought this matter forcefully to the attention of the Director of the Office of Management and Budget. Only after he conveyed his assurances that, upon the taking effect of this plan, a serious effort would be made to restore to the Immigration and Naturalization Service personnel equivalent to the number to be transferred, and to upgrade certain positions, did I decide to support the proposed reorganization.

If the plan is permitted to take effect, I will expect the commitment regarding the Immigration and Naturalization Service to be kept. If the plan fails, then I will continue to urge and recommend legislative action to build up and equip the Immigration and Naturalization Service for the effective performance of its tasks.

CHET HOLIFIELD.

DISSENTING VIEWS OF HON. FRANK HORTON, HON. JOHN N. ERLBORN, HON. JOHN W. WYDLER, HON. CLARENCE J. BROWN, HON. GUY VANDER JAGT, HON. JOHN H. BUCHANAN, JR., HON. GARRY BROWN, HON. CHARLES THONE, HON. RICHARD W. MALLARY, HON. STANFORD E. PARRIS, HON. ANDREW J. HINSHAW, HON. ALAN STEELMAN, HON. JOEL PRITCHARD, AND HON. ROBERT P. HANRAHAN

We strongly urge the House to vote in favor of this plan to establish a Drug Enforcement Administration; that is to say, to vote against H. Res. 382 to disapprove Reorganization Plan No. 2 of 1973. This reorganization is a necessary step which is fully justified. The proposed consolidation of drug law enforcement activities would allow substantial improvements as well as some savings in these vitally important programs. It makes no sense for the Congress to bemoan the drug menace in America if it is unwilling to allow the executive branch to take the steps necessary to achieve a fully effective drug law enforcement program.

We are aware of the fears expressed by some labor organizations that the transfer of INS personnel would adversely affect the ability of INS to control the number of illegal aliens entering the country, and we are aware of the anxieties of INS personnel. However, we understand there is movement towards the resolution of the problems raised and we believe they will be overcome to everyone's satisfaction.

Therefore, we believe it is imperative that the House take this opportunity to strengthen Federal drug law enforcement efforts, and that we can do so with confidence in the early satisfactory resolution of the outstanding issues involving the INS.

Why Drug Law Enforcement Should Be Consolidated

Federal drug law enforcement activities do not now operate under a unified command. Resources cannot be deployed in an optimum fashion. There have been serious losses of effectiveness due to conflicts among agencies involved in drug activities. There is no single point in the Federal Establishment to which State and local governments, as well as foreign police forces, can turn when they wish to coordinate operations or seek assistance.

These problems have been recognized for some time, most recently in the Second Report of the National Commission on Marihuana and Drug Abuse. No one argues that the consolidation proposed will resolve all the problems we face in this country because of drug abuse. What we are saying is that it is clear this consolidation will greatly strengthen the efforts of existing Federal drug law enforcement operations.

There have been a couple of issues raised about the desirability of such a consolidation of drug programs. Concern has been expressed that this could put too much investigative authority in the Justice Department. We would point out that the only investigative authority being transferred into the Justice Department is the narcotics investigations authority of Customs. While Customs has been highly successful in making narcotics seizures, at the same time, some of the worst cases of destructive competition have been noted between Customs and the Bureau of Narcotics and Dangerous Drugs in the Justice Department.

It has also been suggested that this plan would improperly merge the investigative and prosecutorial functions and down-grade the role of U.S. attorneys. In a letter from Deputy Attorney General Joseph Sneed to Congressman Horton on May 21, he stated "(t)he proposed Drug Enforcement Administration does not depart from traditional concepts of the separation of investigative and prosecutorial functions * * * nor does it in any way affect the traditional responsibilities and authority of the U.S. attorney to authorize or decline prosecutions." Our research substantiates Deputy Attorney General Sneed's statement.

The claim that alleged mismanagement in the Justice Department makes such a reorganization unwise appears to us to be an inappropriate argument. We must state for the record that we were shocked and dismayed by the ODALE raids in Collinsville, Ill. But we have every reason to believe that the guilty parties will be brought to justice, and that this was an isolated case, not to be repeated. Indeed, we feel this reorganization under new leadership will allow far better management for these high priority programs.

We feel this proposal to consolidate drug law enforcement programs and to create a Drug Enforcement Administration are timely and necessary. We believe it is incumbent upon the Congress to take this step to strengthen Federal drug law enforcement activities.

Single Management of Inspections at Ports of Entry

We are aware of the many problems which INS personnel, the AFGE, and the AFL-CIO see in a proposal to transfer INS port-of-entry inspections authority to Customs. We are also aware that proposals for single management of inspections at ports of entry have been studied and recommended on several occasions previously. We understand the GAO will soon issue a report which will suggest single management of inspections at ports of entry. The technical difficulties involved appear to require detailed consideration. On the basis of the offers made in Mr. Malek's letter of May 22 (see report, appendix), we believe it would be possible to resolve these difficulties to everyone's advantage. Specifically, we felt the offer to increase by 900 personnel over the next 2 years, the resources devoted to the very serious illegal aliens problem facing this country, would be a major step forward. We felt the personnel issues involving overtime, grade structures, etc., had been satisfactorily resolved, certainly in broad outline. We also felt the union jurisdictional issue was being addressed fairly.

It is our understanding there will be continued negotiations with the union on these points in an attempt to reach full agreement, and

we certainly hope full agreement is reached. In any case, we feel that the need for a consolidation of drug law enforcement activities is so substantial that we must give this reorganization primary consideration. At this point, it is our firm judgment that the problems involved with the INS transfer are being vigorously addressed by both sides and that they will be successfully resolved.

GARRY BROWN.
CLARENCE J. BROWN.
JOHN N. ERLNBORN.
GUY VANDER JAGT.
ALAN STEELMAN.
JOHN H. BUCHANAN.
ROBERT P. HANRAHAN.
FRANK HORTON.
JOEL PRITCHARD.
RICHARD W. MALLARY.
ANDREW J. HINSHAW.
CHARLES THONE.
STANFORD E. PARRIS.
JOHN W. WYDLER.